

House Amendment 1347

PAG LIN

1 1 Amend Senate File 415, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 1, by inserting before line 1 the
1 4 following:
1 5 <Section 1. Section 6A.22, subsection 2, paragraph
1 6 c, subparagraph (1), Code 2009, is amended to read as
1 7 follows:
1 8 (1) (a) If private property is to be condemned for
1 9 development or creation of a lake, only that number of
1 10 acres justified as reasonable and necessary for a
1 11 surface drinking water source, and not otherwise
1 12 acquired, may be condemned. ~~In addition Prior to~~
~~1 13 making a determination that such lake development or~~
~~1 14 creation is reasonable and necessary,~~ the acquiring
1 15 agency shall conduct a review of demonstrate by clear
1 16 and convincing evidence that no other prudent and
1 17 feasible alternatives to alternative for provision of
1 18 a drinking water source ~~prior to making a~~
~~1 19 determination that such lake development or creation~~
~~1 20 is reasonable and necessary exists.~~ Development or
1 21 creation of a lake as a surface drinking water source
1 22 includes all of the following:
1 23 (i) Construction of the dam, including sites for
1 24 suitable borrow material and the auxiliary spillway.
1 25 (ii) The water supply pool.
1 26 (iii) The sediment pool.
1 27 (iv) The flood control pool.
1 28 (v) The floodwater retarding pool.
1 29 (vi) The surrounding area upstream of the dam no
1 30 higher in elevation than the top of the dam's
1 31 elevation.
1 32 (vii) The appropriate setback distance required by
1 33 state or federal laws and regulations to protect
1 34 drinking water supply.
1 35 (b) For purposes of this subparagraph (1), "number
1 36 of acres justified as reasonable and necessary for a
1 37 surface drinking water source" means according to
1 38 guidelines of the United States natural resource
1 39 conservation service and according to analyses of
1 40 surface drinking water capacity needs conducted by one
1 41 or more registered professional engineers. However,
~~1 42 any guidelines or analyses related to future water~~
~~1 43 capacity needs or water capacity needs in time of~~
~~1 44 drought shall be based on the current rate of drinking~~
~~1 45 water usage in the area to be served by the surface~~
1 46 drinking water source.
1 47 (c) In making determinations required under this
1 48 subparagraph (1), any reviews or analyses conducted by
1 49 an engineer shall be conducted by a registered
1 50 professional engineer selected by a committee of
2 1 private landowners affected by the proposed
2 2 condemnation action. The acquiring agency shall be
2 3 responsible for paying the fees and expenses of an
2 4 engineer whose services are retained pursuant to this
2 5 subparagraph (1).
2 6 Sec. 2. Section 6A.24, subsection 3, Code 2009, is
2 7 amended to read as follows:
2 8 3. For any action brought under this section, the
2 9 burden of proof shall be on the acquiring agency to
2 10 prove by ~~a preponderance of the clear and convincing~~
2 11 evidence that the finding of public use, public
2 12 purpose, or public improvement meets the definition of
2 13 those terms. If a property owner or a contract
2 14 purchaser of record or a tenant occupying the property
2 15 under a recorded lease prevails in an action brought
2 16 under this section, the acquiring agency shall be
2 17 required to pay the costs, including reasonable
2 18 attorney fees, of the adverse party.
2 19 Sec. 3. Section 6B.54, subsection 10, paragraph a,
2 20 Code 2009, is amended by adding the following new
2 21 subparagraph:
2 22 NEW SUBPARAGRAPH. (3) Reasonable attorney fees
2 23 and reasonable costs not to exceed one hundred
2 24 thousand dollars, including expert witness fees and

2 25 fees relating to appraisal of the property, not
2 26 otherwise provided under section 6B.33.
2 27 Sec. 4. Section 316.4, subsection 1, Code 2009, is
2 28 amended to read as follows:
2 29 1. If a program or project undertaken by a
2 30 displacing agency will result in the displacement of a
2 31 person, the displacing agency shall make a payment to
2 32 the displaced person, upon proper application as
2 33 approved by the displacing agency, for actual
2 34 reasonable and necessary expenses incurred in moving
2 35 the person, the person's family, business, farm
2 36 operation, or other personal property subject to rules
2 37 and limits established by the department. The payment
2 38 may also provide for actual direct losses of tangible
2 39 personal property, purchase of substitute personal
2 40 property, business reestablishment expenses, storage
2 41 expenses, and expenses incurred in searching for a
2 42 replacement business or farm. If relocation of a
2 43 business or farm operation is not economically
2 44 feasible, the displaced person may also apply for
2 45 payment of the loss of existing business relationships
2 46 because of the inability to relocate the business or
2 47 farm operation to a location similar in economic
2 48 advantage to the location from which the business or
2 49 farm operation was moved.
2 50 Sec. 5. Section 364.4, subsection 1, paragraph a,
3 1 unnumbered paragraph 1, Code 2009, is amended to read
3 2 as follows:
3 3 Acquire, hold, and dispose of property outside the
3 4 city in the same manner as within. However, the power
3 5 of a city to acquire property outside the city does
3 6 not include the power to acquire property outside the
3 7 city by eminent domain, except if viable alternatives
3 8 do not exist within the city and the acquisition of
3 9 the property is necessary for the following, subject
3 10 to the provisions of chapters 6A and 6B:
3 11 Sec. 6. Section 403.7, subsection 1, unnumbered
3 12 paragraph 1, Code 2009, is amended to read as follows:
3 13 A municipality shall have the right to acquire by
3 14 condemnation any interest in real property, including
3 15 a fee simple title thereto, which it may deem
3 16 necessary for or in connection with an urban renewal
3 17 project under this chapter, subject to the limitations
3 18 on eminent domain authority in ~~chapter~~ chapters 6A and
3 19 6B. However, a municipality shall not condemn
3 20 agricultural land included within an economic
3 21 development area for any use unless the owner of the
3 22 agricultural land consents to condemnation or unless
3 23 ~~the municipality determines that the land is necessary~~
~~3 24 or useful~~ viable alternatives to the condemnation of
3 25 agricultural land do not exist and the acquisition of
3 26 the property is necessary for any of the following:>
3 27 #2. Page 1, line 4, by inserting after the figure
3 28 <657A.10A,> the following: <and notwithstanding
3 29 chapters 6A and 6B,>.
3 30 #3. Page 4, by inserting after line 14 the
3 31 following:
3 32 <Sec. _____. EFFECTIVE DATE. The sections of this
3 33 Act amending sections 6A.22, 6A.24, 6B.54, 316.4,
3 34 364.4, and 403.7, being deemed of immediate
3 35 importance, take effect upon enactment and apply to
3 36 projects or condemnation proceedings pending or
3 37 commenced on or after that date.>
3 38 #4. Title page, line 2, by inserting after the
3 39 word <years> the following: <and to the authority and
3 40 proceedings to acquire property through condemnation,
3 41 and including effective date and applicability date
3 42 provisions>.
3 43 #5. By renumbering as necessary.
3 44
3 45
3 46
3 47 TYMESON of Madison
3 48 SF 415.305 83
3 49 md/sc/23428